

CHAPTER NO. 1011

HOUSE BILL NO. 2598

By Representatives Rhinehart, Head, Patton, Ford

Substituted for: Senate Bill No. 2926

By Senator Atchley

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 36, relative to public safety officers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-36-205, is amended by deleting the same in its entirety and by substituting instead the following:

(a) There shall not be a mandatory age requirement for any member of the Tennessee Consolidated Retirement System, except for the following:

(1) Members who are employed as state police officers, wildlife officers or commissioned members of the alcoholic beverage commission and who are engaged in law enforcement activities on a day-to-day basis, or who have been transferred from such activities to a supervisory or administrative position within the same department or agency for which they served as state police officers, wildlife officers or commissioned members of the alcoholic beverage commission; provided that the mandatory retirement of any such member does not violate the Age Discrimination in Employment Act. A mandatory age requirement shall also apply for members who are employed with the wildlife resources agency as commissioned wildlife area managers, commissioned wildlife lake managers, commissioned boating chiefs, commissioned boating assistant chiefs, commissioned wildlife safety officers, commissioned habitat biologists, commissioned enforcement chiefs or commissioned assistant enforcement chiefs; provided that the mandatory retirement of any such member does not violate the Age Discrimination in Employment Act. In cases of doubt, the Tennessee Department of Personnel shall determine whether the member is employed in a position requiring the mandatory retirement of such member under the provisions of this subsection (a)(1). In making any such determination, the department shall apply the applicable definitions contained in chapters 34-37 of this Title and in the Age Discrimination in Employment Act. Any member employed in a position requiring mandatory retirement under the provisions of this subsection shall be retired on the first day of the month following the month in which the member attains sixty (60) years of age; and

(2) A mandatory age requirement shall also apply for members who are employed as firefighters or police officers with a political subdivision participating in the Tennessee Consolidated Retirement System, or who have been transferred from such a position to a supervisory or administrative position within the police or fire department; provided the political subdivision has adopted a mandatory retirement age requirement pursuant to this subdivision (a)(2) and provided that the mandatory retirement of any such member does not violate the Age

Discrimination in Employment Act. In cases of doubt, the respective political subdivision shall determine whether the member is employed in a position requiring the mandatory retirement of such member under the provisions of this subsection (a)(2). In making any such determination, the political subdivision shall apply the applicable definitions contained in chapters 34-37 of this title and in the Age Discrimination in Employment Act. Any political subdivision participating in the retirement system may establish a mandatory retirement age requirement for all its firefighters and police officers and for all its employees who have been transferred from the position of a firefighter or police officer to a supervisory or administrative position within the police or fire department; provided that:

(A) the terms and conditions of the requirement shall be the same for all such employees within its employ;

(B) the mandatory age requirement shall not be less than sixty (60) years of age;

(C) each such employee shall be retired on the first day of the month following the month in which the employee attains the age requirement established by the political subdivision;

(D) if the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. §§ 401-425), each such employee shall be entitled to the supplemental bridge benefit established pursuant to § 2 of this act; and

(E) the chief governing body of the political subdivision passes a resolution authorizing the establishment of the mandatory retirement age requirement. If the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act, the political subdivision must first authorize and pay for the cost of an actuarial study to determine the liability associated with the granting of the supplemental bridge benefit. All costs associated with providing the supplemental benefit shall be paid by the political subdivision and not by the State.

(b) This section shall not be construed to render ineffectual the mandatory retirement of any member occurring prior to July 1, 1998.

(3)(A) Notwithstanding any provision of this section to the contrary, any member employed in a position requiring mandatory retirement under the provisions of subdivision (a)(1) of this section shall be retired on the first day of the month following the month in which the member attains sixty (60) years of age, unless the Tennessee Department of Personnel determines that such member serves in a supervisory or administrative position which requires less than fifty percent (50%) of the member's duties to be involved in day-to-day law enforcement activities. Upon such determination by the Department of Personnel, the member may continue in service until the first day of the month following the month in which the member attains sixty-two (62) years of age; provided such member signs a consent form whereon the member acknowledges that by continuing in service the member forfeits any rights to

retirement benefits, including the supplemental bridge benefit provided for in § 2 of this Act, during the period of the member's continued service. Such form must be filed with the retirement division on or before the first day of the month prior to the month in which the member attains sixty (60) years of age. Any such member who fails to file the form at the time and in the manner prescribed by this subdivision shall be retired on the first day of the month following the month in which the member attains sixty (60) years of age.

(B) Notwithstanding any provision of this section to the contrary, any member employed in a position requiring mandatory retirement under the provisions of subdivision (a)(2) of this section shall be retired on the first day of the month following the month in which the member attains sixty (60) years of age, unless the respective political subdivision determines that such member serves in a supervisory or administrative position which requires less than fifty percent (50%) of the member's duties to be involved in day-to-day law enforcement or fire fighting activities. Upon such determination by the respective political subdivision, the member may continue in service until the first day of the month following the month in which the member attains sixty-two (62) years of age; provided such member signs a consent form whereon the member acknowledges that by continuing in service the member forfeits any rights to retirement benefits, including the supplemental bridge benefit provided for in § 2 of this Act, during the period of the member's continued service. Such form must be filed with the retirement division on or before the first day of the month prior to the month in which the member attains sixty (60) years of age. Any such member who fails to file the form at the time and in the manner prescribed by this subdivision shall be retired on the first day of the month following the month in which the member attains sixty (60) years of age.

SECTION 2. Tennessee Code Annotated, Title 8, Chapter 36, is amended by adding the following as a new, appropriately designated part:

8-36-____. Supplemental Bridge Benefit. (a) Any Group 1 member who retires on a service retirement allowance on or after the attainment of age sixty (60) with creditable service in a Group 1 position covered by the mandatory retirement provisions of § 8-36-205(a)(1) shall receive, in addition to his or her service retirement allowance, a supplemental bridge benefit calculated as follows:

(1) For any such member retiring on a service retirement allowance pursuant to § 8-36-201, the supplemental bridge benefit shall be equal to three-fourths of one percent (0.75%) of the member's average final compensation, multiplied by the member's years of creditable service established while the member was in a Group 1 position covered by the mandatory retirement provisions of § 8-36-205(a)(1); or

(2) For any such member retiring on an early service retirement allowance pursuant to § 8-36-301, the supplemental bridge benefit shall be computed in accordance with subdivision (a)(1) above, but shall be reduced by four tenths of one percent (.4%) for each month by which the member's date of early service retirement precedes the member's service retirement date.

(b) A supplemental bridge benefit shall further be paid to any Group 1 member who retires on a service retirement allowance on or after the attainment of age sixty (60) with creditable service in a Group 1 position covered by the

mandatory retirement provisions of § 8-36-205(a)(2) if the political subdivision for which the service was rendered adopts a mandatory retirement age requirement pursuant to § 8-36-205. The supplemental benefit shall only be paid if the mandatory retirement age requirement adopted by the political subdivision is sixty (60) years of age or older, but less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act. The supplemental benefit shall be calculated as follows:

(1) For any such member retiring on a service retirement allowance pursuant to § 8-36-201, the supplemental bridge benefit shall be equal to three-fourths of one percent (0.75%) of the member's average final compensation, multiplied by the member's years of creditable service established while the member was in a Group 1 position covered by the mandatory retirement provisions of § 8-36-205(a)(2); or

(2) For any such member retiring on an early service retirement allowance pursuant to § 8-36-301, the supplemental bridge benefit shall be computed in accordance with subdivision (b)(1) above, but shall be reduced by four tenths of one percent (.4%) for each month by which the member's date of early service retirement precedes the member's service retirement date.

(c) Notwithstanding subsections (a) or (b), the supplemental bridge benefit shall not exceed twenty-two and one-half percent (22.5%) of the member's average final compensation. Said limit shall not apply to any cost-of-living increases to which the member is entitled under subsection (d) of this section.

(d) Any retired member covered by the provisions of this section shall be entitled to receive an adjustment in the retiree's supplemental bridge benefit pursuant to § 8-36-701. Any such adjustment to the bridge benefit shall be computed separately from the member's service retirement allowance.

(e) The provisions of § § 8-36-208(a) and 8-36-102 shall not be construed to reduce or eliminate the supplemental bridge benefit provided by this section, nor shall the supplemental benefit be reduced as a result of any optional retirement allowance selected by the member pursuant to § 8-36-601.

(f) The supplemental bridge benefit and any cost-of-living adjustments attributable to such benefit shall cease on the first day of the month following the month in which the member dies, or on the first day of the month following the month in which the member reaches the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. §§ 401-425), whichever occurs first.

(g) The supplemental bridge benefit provided by this section shall apply to all current and future retired members; provided, however, such benefit shall not be paid retroactively, but shall become effective on July 1, 1998 for service covered under subsection (a), or upon the effective date of the mandatory retirement age provision for service covered under subsection (b).

(h) All costs associated with providing the supplemental bridge benefit shall be paid by the respective state agencies and political subdivisions for which the service covered by this section was rendered.

SECTION 3. Tennessee Code Annotated, Section 8-36-201(b)(1), is amended by deleting the same in its entirety and by substituting instead the following:

(b)(1) Group 2. Any member in Group 2 shall be eligible for service retirement upon satisfying one (1) of the following:

(A) Attainment of sixty (60) years of age or upon attainment of fifty-five (55) years of age and completion of twenty-five (25) years of creditable service; or

(B) At any age upon completion of thirty (30) years of creditable service; provided, that this subdivision (b)(1)(B) shall be optional for political subdivisions participating under the provisions of chapter 35 of this title.

SECTION 4. Tennessee Code Annotated, Section 8-36-301(a)(1), is amended by deleting the same in its entirety and by substituting instead the following:

(1) Attainment of fifty-five (55) years of age with the applicable years of creditable service as set forth in § 8-36-204; or

SECTION 5. Tennessee Code Annotated, Section 8-36-301(b), is amended by deleting the same in its entirety and by substituting instead the following:

(b) Any member in Group 2 shall be eligible for early retirement upon satisfying one (1) of the following:

(1) Attainment of fifty-five (55) years of age with ten (10) years of creditable service; or

(2) If the member is employed by a political subdivision which has not authorized unreduced service retirement benefits pursuant to § 8-36-201(b)(1)(B), at any age with thirty (30) years of creditable service.

SECTION 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 7. The provisions of this Act shall be subject to the funding being provided in the General Appropriations Act.

SECTION 8. This Act shall take effect on July 1, 1998, the public welfare requiring it.

PASSED: April 29, 1998


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 18th day of May 1998


DON SUNDQUIST, GOVERNOR